THE HIGH COURT OF UTTARANCAL AT NAINITAL

Writ Petition (M/S) No. 412 of 2001.
(Old CMWP No. 501 of 1996)

Anwar Ahmad son of Sultan Ahmad, Resident of Sitaragaj, District Udham Singh Nagar.

…….. **Petitioner.**

Vs.

1. The State of Uttar Pradesh.
2. The II Additional District Judge, Nainital.
3. The Prescribed Authority/Sub-Divisional Magistrate Khatima, Nainital.
4. Tehsildar, Sitarganj, Nainital.

……..**Respondents.**

Sri N.S. Negi, learned counsel for the petitioner.
Sri Nand Prasad, Learned Standing Counsel for the respondents.

Dated July 19, 2006
P.C.:, Hon'ble B.S. Verma, J.

This writ petition has been filed for quashing the impugned order dated 20-2-1995 (Annexure No.2) passed by the Prescribed Authority as well as judgment order dated 26-9-1995 passed by the respondent no.2 in appeal (Annexure No.4).

The record shows that proceedings under Sections 4/5/7 the U.P. Act No. XXII of 1972 (***for short the Act***) were drawn against the petitioner by the Prescribed Authority and a notice under Section 4(1) of the said Act was issued to show cause as to why the petitioner be not evicted from the public premises. The case was registered as Eviction Case No.22/82 of 1989-90 State Vs. Anwar Ahmad and the case was contested by the petitioner before the Prescribed Authority. Ultimately, the order of recovery of damages of Rs. 67,200/- under Section 7 of the said Act was passed against the petitioner on 20-2-1995. Aggrieved by the said order, the petitioner went up in appeal before the District Judge Nainital, which was ultimately heard and decided by the II Additional District Judge Nainital. The appellate court also did not

find favour with the petitioner-appellant and dismissed the appeal vide judgment and order dated 26-9-1995.

I have heard the submission of the learned counsel for the petitioner as well as learned Standing Counsel appearing on behalf of the respondents- State and perused the record.

At the outset, it may be mentioned that this Court vide judgment dated 25-5-2006 passed in Writ Petition No.3235 (M/S) of 2001 Krishna Kant Vs. I Additional District Judge Nainital and others along with 42 other writ petitions has already considered the controversy involved in the present writ petition. All the 43 writ petitions preferred by different petitioners were allowed by that common judgment and it was held that the provisions of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972 were not applicable to the agricultural land and it was open to the State to proceed for eviction of the petitioners under the provisions of the U.P. Zamindari Abolition and Land Reforms Act/**KUZA** Act and other allied laws in force. It was also observed therein that the petitioners may also get their title declared by filing suit under Section 229-B of the Z.A. & L.R. Act/KUZA Act, provided they establish their stand before the Revenue Court. The learned counsel for the petitioner has submitted that the present writ petition is similar to the writ petitions already decided by this Court on 25.5.2006, therefore, this case be decided in terms of the judgment passed in Writ Petition No.3235 of 2001 (M/S). The learned Standing Counsel fairly conceded to this fact in the course of arguments.

In view of the fact that this Court has already decide as many as 43 similar writ petition by a common judgment aforesaid coupled with the submissions made by the leaned counsel for the petitioner, there is no need to repeat the same material again in the case at hand. The present writ petition is fully covered by the judgment passed in Writ Petition No.3235 (M/S) of

2001, Krishna Kant Vs. I Additional District Judge Nainital and others along with 42 other writ petitions decided by this Court on 25-5-2006. This writ petition deserves to be allowed on merit in terms of the said judgment.

The present writ petition stands allowed in terms of the judgment dated 25.5.2006 passed by this Court in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. I Additional District Judge Nainital. No order as to costs.

(B. S. Verma, J.)

RCP